

The intent of this Part is to provide for the appropriate location, use, design and composition of open space areas provided to meet a requirement or incentive of the Land Development Code. As such, the standards prescribed by this Part shall be applicable to any open space intended to satisfy an open space requirement of the Campus Form District, Village Form District and the Planned Residential Development District or as an incentive in accordance with Alternative Development Incentives.

The following terms relating to Open Space are included in the Definitions (Chapter 1 Part 2) Conservation Easement, Green, Greenway, Holder, Meadow, Open Space, Open Space, Common, Open Space, Private, Open Space, Public, Park, Pedestrian and Bicycle Corridor, Playground, Plaza, Sports Fields, Square

10.5.1 Relationship to the Comprehensive Plan

The open space standards prescribed by this Part are intended to implement the following Cornerstone 2020 Comprehensive Plan Goals and Plan Elements.

Goals	Plan Elements
Mobility Strategy Goals C1; H2	Guidelines 3, 4, 5, 10, 11, 12, 13
Marketplace Strategy Goal D2	
Livability Strategy Goals A1; B1; B2; B3; B4; E1; E2; E3; E4; F1; F2; F3; F4; G1; G2; G3; G4; H1; H2; H3; H4; H5; I2; J4	

10.5.2 Types of Open Space

There can be a wide variety of purposes and applications of open space within a specific development site, neighborhood or community. As such, the following general types of open space have been identified with examples of each provided. These categories shall not be considered mutually exclusive as an open space can serve more than one purpose.

A. Open Space for Outdoor Recreation

The following are examples of open space consistent with this type.

1. Parks, greens, squares, plazas
2. Playgrounds, sports fields, outdoor pools and horse riding facilities
3. Pedestrian and bicycle corridors and facilities
4. Golf courses

B. Open Space for Natural Resource Protection / Public Health and Safety

The following are examples of open space consistent with this type.

1. Woodland conservation/protection areas
2. Areas managed for the protection of habitat, native vegetation, and/or threatened or endangered species (e.g. nature preserves)
3. Jurisdictional and non-jurisdictional wetlands
4. Designated greenways
5. Stormwater detention and retention basins
6. Regulatory floodplains and conveyance zones
7. Required stream buffers located outside the regulatory floodplain and conveyance zone
8. Lands with slopes over 20%
9. Areas with karst (sinkhole) geology
10. Lands with unstable soils

C. Open Space for Aesthetic, Design Compatibility, Cultural and Educational Purposes

The following are examples of open space consistent with this type.

1. Visual resources such as providing substantial landscape buffer areas or providing a setback in excess of that required so as to maintain the integrity of a scenic corridor
2. Designated or recognized cultural, historic or archaeological sites
3. Landscaped roadway medians at least 30 feet in width that add to the community's improved visual appearance
4. Meadows

D. Open Space for the Managed Production of Resources

The following are examples of open space consistent with this type.

1. Agricultural lands and activities
2. Woodlands managed for forestry production
3. Community gardens

10.5.3 Amount of Open Space Credit

The amount of credit provided towards the fulfillment of an open space requirement or incentive for the various forms of open space depends upon its level of accessibility to the public and the development potential of the land itself. When calculating the amount of credit a particular open space area should be given the following shall apply.

- A. Credit equal to 125% of the open space area shall be given for any open space area that is permanently preserved as Public Open Space, except as prescribed in (D) of this Section.
- B. Credit equal to 100% of the open space area shall be given for any open space area that is permanently preserved as Common Open Space, except as prescribed in (D) of this Section.
- C. Credit equal to 75% of the open space area shall be given for any open space area that is permanently preserved as Private Open Space, except as prescribed in (D) of this Section and except that no credit shall be given for private open space areas where easements or development rights have been purchased or acquired through the use of public funds.
- D. Requirements of this paragraph D. shall only apply to sites that are developed in accordance with **Section 2.7.3** (Planned Residential Development District) or **Chapter 4 Part 5** (Alternative Development Incentives). Open space that is located in an area in which development is prohibited or is significantly restricted due to environmental constraints or other conditions shall be given partial open space credit in an effort to ensure their permanent preservation. These areas and the open space credit they shall receive are prescribed below.
 - 1. Conveyance zones (50% credit)
 - 2. Jurisdictional wetlands (50% credit)

In order for any of the areas mentioned above to qualify as open space and receive the open space credit prescribed herein, they must meet the open space standards set forth in Section 10.5.4. When an open space credit is prescribed by (D) of this Section, the amount of credit provided shall be calculated by multiplying the open space area by the credit (%) provided in (D) and then by multiplying that total by the credit (%) provided for the various types of preservation (e.g. public, common or private).

Note: Partial credit for open space as specified in 10.5.3.D is not applicable to any required open space (e.g., Campus, Village form districts.)

10.5.4 Open Space Standards

Because of the variety in the types and functions of open space demonstrated in [Section 10.5.2](#), specific requirements are needed that permit the location, design and use of open space to be consistent with its intended purpose. As such the following standards have been developed for specific open space types and uses. Any area designated as open space shall be categorized and labeled on the face of the applicable plan (e.g. preliminary subdivision, development plan, final site plan, or landscape plan) according to the type of open space and the standards for that type of open space shall be applicable.

A. Standards for All Types of Open Space

1. Any area covered by or contained within any of the following shall not be considered as open space unless specifically permitted: buildings, streets, public or private rights-of-way, parking areas, utility rights-of-way (except where all utilities are required to be underground).
2. Parking lots may not be used to meet an open space requirement or incentive unless they are designed as part of the open space and are intended primarily for users of the open space (e.g., parking for sports field, greenway or park users). Semi-pervious paving systems shall be required when any parking lot proposed to be used as open space contains more than 20 parking spaces.
3. All parklands or other open space intended for dedication to public use must be approved as to location and design by the public entity proposed to be responsible for managing the open space prior to plan approval by the Planning Commission or DPDS.
4. All open space areas other than those provided for developments in the Downtown Form District shall have a minimum dimension of 30 feet and contain at least 6,000 square feet of contiguous area. A minimum dimension of no less than 15 feet may be permitted for pedestrian facilities that connect other open space areas within a site. When a site's open space requirement is less than 6,000 square feet the minimum area may be reduced to equal that requirement.
5. When an area is preserved as **private open space**, prior to the recording of a plat or the issuance of a building permit, whichever occurs first, the developer and recipient entity shall submit a copy of the recorded conservation easement assuring the permanent protection, preservation and maintenance of the proposed open space. If such documents are not provided, the open space area shall not be considered for the purposes of meeting required open space nor shall it be used to calculate any potential open space credit provided by the Land Development Code.

6. When an area is preserved as **common open space**, prior to the recording of a plat or the issuance of a building permit, whichever occurs first, the developer and, where applicable, recipient entity shall submit a copy of the recorded documents assuring the permanent protection, preservation and maintenance of the proposed open space. If such documents are not provided, the open space area shall not be considered for the purposes of meeting required open space nor shall it be used to calculate any potential open space credit provided by the Land Development Code. (See **Chapter 1** for specific maintenance requirements for common open space and common facilities.)
7. When an area is preserved as **public open space**, the Planning Director shall review the proposed open space and determine, upon consultation with the Parks Director, if it is accessible by and a benefit to the general public. Prior to the recording of a plat or the issuance of a building permit, whichever occurs first, the developer shall permanently dedicate the open space to public use in a manner acceptable to the Planning Commission and the recipient entity.

B. Standards for Outdoor Recreation

1. All open space for outdoor recreation shall be preserved as either common or public open space.
2. All open space located within a site shall be integrated and connected with any part of an adjacent and designated park, open space or greenway.
3. Squares and greens shall not be located behind dwellings. The Planning Director may allow exceptions to this standard upon determining that topography, existing street layout, or other features make this restriction impractical.
4. All pedestrian and bicycle corridors used to meet an open space requirement or incentive may not be located in a public right-of-way, shall be at least 30 feet in width, and the paths and trails located within them must be designed to the standards contained or incorporated by reference in the *KIPDA Regional Pedestrian and Bicycle Plan*.

Note: *Open space should be integrated and connected within the site to the greatest extent practical.*

C. Standards for Natural Resource Protection / Public Health and Safety Purposes

1. Greenways designated within and meeting the design standards of a legislatively adopted greenways plan or subsequent watershed master plan may be utilized to meet an open space requirement or incentive.

2. Jurisdictional and non-jurisdictional wetlands and their buffers may be used to satisfy an open space requirement or incentive if the hydrologic and vegetative character of the wetland is maintained in a pre-development condition. This shall not preclude increasing the volume of water or rate in which it passes through the wetland when the wetland is being used as a water quality filter and said modifications would not degrade the quality of the existing wetland. It shall also not preclude increasing the size of the wetland or enhancing its existing vegetation.
 3. Detention and retention basins may be counted towards an open space requirement or incentive as follows.
 - a. Retention basins designed to hold water at least five feet in depth on a continuous basis throughout the year may be used to meet an open space requirement or incentive if its banks are vegetated and landscaping is provided around the basin's perimeter in an effort to make it a visual amenity for the development and the basin is accessible by the provision of walking paths or other pedestrian facilities.
 - b. Detention basins may be used to meet an open space requirement or incentive if some form of outdoor recreation is incorporated into its design (e.g., walking paths, tennis courts, basketball courts and similar facilities within the basin). The frequency and duration of standing water in these basins shall not be such that proposed outdoor recreation use is practically restricted on a regular basis. The applicant shall address provision of maintenance necessary to allow the use of these areas. Landscaping should be provided around the basin's perimeter in an effort to make it a visual amenity for the development and its banks should be vegetated. The basins should also be accessible by the provision of walking paths or other pedestrian facilities. When access is provided within a basin the maximum grade of the pedestrian facilities shall be 12.5%.
 4. Areas with significant karst geology may be used to satisfy an open space requirement or incentive if sufficient area, inclusive of buffers, is preserved as open space in order to protect the geologic, hydrologic or vegetative character of the area.
 5. Unstable soils as depicted by *Core Graphic 5: "Environmental Constraints"* may be utilized to meet an open space requirement or incentive.
- D. Standards for Aesthetic, Design Compatibility, Cultural, Educational Purposes

1. Any roadway median that is intended to be used to satisfy an open space requirement or incentive shall be at least 30 feet in width and provide a landscape treatment including at least one large Type A tree per 50 linear feet of road frontage and some combination of shrubs and ground cover. Where pedestrian facilities/crossings are provided, they shall be designed and installed in accordance with current Public Works standards.
2. Cultural, historic or archaeological sites proposed to satisfy an open space requirement or incentive must be either locally designated as a Historic Landmarks Preservation District, must be located within the National Register Historic District, or be listed on or eligible for the National Register of Historic Places. The sites must be permanently preserved through easement or other form of dedication, and provisions agreed upon to secure the permanent maintenance and preservation of the sites. Open space credit provided in accordance with this provision shall not include any building or structure.
3. When a structure or group of structures are proposed adjacent to a designated scenic corridor, open space shall be credited for providing a structure setback from the scenic corridor at least 50% greater than that required. Upon providing the additional setback the entire setback, including that which is required, may be credited as open space as long as that area is permanently preserved as open space.
4. Landscape Buffer Areas (LBA's) required by this Land Development Code that exceed 40 feet in depth and that are permanently protected as open space may be used in their entirety to meet an open space requirement or qualify for an open space incentive.

Note: If a 30' buffer area is required, it must be supplemented by 10 additional feet in order to receive credit as open space.

E. Standards for the Managed Production of Resources

1. A maximum of 75% of any open space requirement or incentive may be satisfied by lands that are permanently preserved for Managed Production of Resources.

10.5.5 Transfer of Open Space Provisions

Where a portion of this Land Development Code requires open space or allows an incentive for the provision of open space and specifically allows for the transfer of that open space, then the owner/developer may choose to transfer a portion of an open space requirement or incentive to an off-site location subject to final approval by the Planning Commission or its designee. Any transfer will be subject to the following conditions and limitations.

- A. The following limitations shall apply to the amount of an open space requirement or incentive that may be transferred.

1. Residential Development Sites Greater than or Equal to Five Acres and Less than 50 Acres.....40%
 2. Residential Development Sites Greater than or Equal to 50 Acres and Less than 150 Acres.....25%
 3. Residential Development Sites Greater than or Equal to 150 Acres.....10%
 4. Non-Residential Development Sites Greater than or Equal to 25 Acres.....40%
- B. The minimum increment of open space to be transferred shall be one acre.
- C. The transfer of open space must be made to an off-site location that is within two miles of the site from which it is being transferred unless said open space is public open space, in which case the off-site location must be within either (1) two miles of the site from which it is being transferred or (2) the same *Recreation Planning Service Area* (as defined by the *Parks and Open Space Master Plan*). In any case the transfer of open space shall be subject to final approval by the Planning Commission or its designee.
- D. The transfer of open space must be provided in the form of a conservation easement owned or managed by a qualified holder or by dedication to the Parks Department or other governmental entity.
- E. A preliminary letter of interest on behalf of a qualified holder, the Parks Department, or other governmental entity must be completed and submitted concurrently with any application for plan review that would trigger the open space requirement or incentive. A legally created transfer agreement must be finalized and executed, and a copy provided to DPDS, within 90 days of any final approval of a plan submittal. The Planning Commission or its designee may grant up to two thirty-day extensions for the execution of said transfer agreement. Failure to execute the agreement or provide the copy may render the final approval of a subdivision plan or district development plan null and void.